

JOSEPH F. BECKER

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JANUARY 10, 1925.—Committed to the Committee of the Whole House and ordered to be printed

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Mr. VINSON of Georgia, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany S. 747]

The Committee on Naval Affairs, to whom was referred the bill S. 747, for the relief of Joseph F. Becker, having had the same under consideration, report favorably thereon with the recommendation that the bill do pass.

Mr. Becker served as an enlisted man in the regular Navy for about 10 years prior to the war. Shortly after the war broke out his ability was recognized by his promotion to be an ensign. In becoming an ensign he was transferred from the regular Navy to the United States Naval Reserve Force, being retained, of course, on active duty, and he was promoted through successive ranks to be a lieutenant commander. While serving as commanding officer of the U. S. S. *Caesar* he was injured in an accident in line of duty and was found by a naval retiring board to be unfit for service. In his status as a reserve officer he was not eligible for retirement. Inasmuch as his life career had been in the Navy and inasmuch as he would have been retired had he stayed in the regular Navy instead of being transferred for the good of the Government service to the Naval Reserve Force, the committee feels that the bill is meritorious and that he should be retired as a chief warrant officer, which rank he would probably have attained had he stayed in the regular Navy.

The following brief filed by Mr. Becker sets forth clearly the facts in the case and is hereby made a part of this report:

MARCH 5, 1924.

In order to acquaint you with the particulars of my enrollment in the United States Naval Reserve Force, I wish to invite your attention to a letter my commanding officer, Lieut. Commander B. B. Wygant, United States Navy, forwarded to the Navy Department on April 14, 1917, in which he said, "In view of conditions I desire to invite the department's attention to the capabilities of an enlisted man, Joseph F. Becker." At this time I had served nearly 10 years

as an enlisted man of the regular Navy, holding two honorable discharges and one good-conduct medal; my rate was chief quartermaster. Both as an enlisted man and as an officer my superiors have always considered and always reported that professionally I was above the average.

The Secretary of the Navy on May 17, 1917, authorized my discharge by special order so that he could employ me in a larger capacity in the Naval Reserve Force, and, returning at my own expense from Queenstown, Ireland, where I had served on board our destroyers, I was directed by Rear Admiral Osterhouse to report to the supervisor, Naval Reserve, at New York, for examination and enrollment, was duly enrolled as an ensign, United States Naval Reserve Force, and ordered to active duty at sea, where I remained continuously until placed on the inactive list by the naval act of July, 1922. Throughout my naval service I had practically no shore duty, and none at all during the late war.

The naval acts of May, 1917, July, 1918, and June 4, 1920, specifically placed all Naval Reserve officers suffering injuries in the line of duty under exactly the same status as officers of the regular Navy. (Revised Statutes, ch. 15, Title III.) These retirement privileges were enacted and reenacted by Congress so it is obvious that it was the intention of Congress to make this the public policy:

"That all officers of the Naval Reserve Force and temporary officers of the Navy who have heretofore incurred or may hereafter incur physical disability in line of duty shall be eligible for retirement under the same conditions as now provided by law for officers of the regular Navy who have incurred physical disability in the line of duty."

In the naval act of June 4, 1920, wherein Congress authorizes the employment on active duty in peace time with their own consent of 500 Naval Reserve officers, it also specifically provided the identical retirement privileges as quoted above and up to the date of my injury no legislation affecting or vitiating in any way this retirement privilege had been enacted.

Peace was declared by joint resolution March, 1921; on May 16, 1921, while I was in command of the naval transport *Caesar* I was seriously injured; on July 12, 1921, Congress passed the naval act for the fiscal year 1922 which contained this section:

"Sec. 6. That the last paragraph of section 2 of the act entitled 'An act making appropriations for the naval service for the fiscal year ending June 30, 1921, and for other purposes,' approved June 4, 1920, is hereby amended to read as follows: 'That all officers of the Naval Reserve Force and temporary officers of the Navy who have heretofore incurred or may hereafter incur physical disability in line of duty in time of war shall be eligible for retirement under the same conditions as now provided by law for officers of the regular Navy who have incurred physical disability in line of duty: *Provided, however,* That application for such retirement shall be filed with the Secretary of the Navy not later than October 1, 1921.'"

By October 24, 1921, it had become evident that, as a result of this injury, I was incapacitated for the duties of my rank and so reported; I was ordered by the Navy Department on November 29, 1921, to appear before a retiring board under the provisions of chapter 15, Title III, which board found me incapacitated in the line of duty 40 per cent for naval service and 25 per cent for civil life. The proceedings and findings of this retiring board were approved by the President and I was ordered not placed on the retired list, as my injury, according to the findings of the board, had not occurred in time of war. This action was taken by reason of the retroactive ex post facto application of the naval act of July 12, 1921, which did not become law until 44 days after the date I was injured in the line of duty. I am not convinced that it is proper public policy, and certainly it is most unjust, to apply such laws to men who, like myself, prepare themselves in time of peace for greater service in time of war. It is my belief that in justice and equity, if not according to the strict view of the law, my right to retirement accrued the moment I was hurt.

The ex post facto feature of the naval act of July 12, 1921, covers only a period of three months and a fraction. No officers hurt prior to March 3, 1921, nor after July 12, 1921, can come under its blighting influence. So far as I am informed, I know of only one other officer who suffered an injury in the line of duty too late to be retired under the law of June, 1920, and he was hurt March 11, 1921. I was hurt May 16, 1921. Special legislation, I understand, has been passed for the relief of this officer hurt March 11, 1921.

Congress has the power to change the retirement law after my injury, to my great disadvantage; but can Congress be justified on any moral or equitable grounds in denying the retirement authorized at the time the injury was sustained to a servant who served in the Navy 15 years, dedicating all his life to it, was found competent to wear the uniform of a naval officer in war, served faithfully and well throughout the war, and was permanently incapacitated in his country's service?

The injury sustained by me in my country's service has been found to be permanent and incapacitating; it is such a serious handicap as to jeopardize my ability to earn a livelihood. By reason of the injury it is physically impossible for me to do the work for which I was trained. I feel I am entitled to the benefits of the law in force and effect at the time of my injury.

Sir, I am asking for a square deal.

Respectfully submitted for your kind consideration.

JOSEPH F. BECKER.

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